

EXHIBIT 2

Page 1

1

2 UNITED STATES DISTRICT COURT

3

SOUTHERN DISTRICT OF NEW YORK

4

Civil Action No. 10-cv-8668

5

6 NATIONAL COALITION ON BLACK CIVIC

7

PARTICIPATION, MARY WINTER, GENE

8

STEINBERG, NANCY HART, SARAH WOLFF,

9

KAREN SLAVEN, KATE KENNEDY, EDA

10

DANIEL, and ANDREA SPERES,

11

Plaintiffs,

12

- and -

13

People of the STATE OF NEW YORK,

14

By its attorney general, LETITIA JAMES,

15

ATTORNEY GENERAL OF THE STATE OF

16

NEW YORK,

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- against -

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JACOB WOHL, JACK BURKMAN, J.M.

19

BURKMAN & ASSOCIATES, LL, PROJECT

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1599, and JOHN and JANE DOES 1-10,

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Defendants.

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23

May 27, 2022

24

10:00 a.m.

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Page 2

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4 VIDEO-RECORDED DEPOSITION of CHARLES
5 RIBANDO, held remotely via Zoom
6 videoconference before Debbie Zaromatidis,
7 a shorthand reporter and Notary Public of
8 the State of New.

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2 A P P E A R A N C E S :

3

4 OFFICE OF THE NEW YORK STATE

5 ATTORNEY GENERAL

6 LETICIA JAMES

7 Attorneys for Plaintiff

8 THE STATE OF NEW YORK

9 28 Liberty Street

10 New York, New York

11 BY: CONOR R. DUFFY, ESQ.

12 COLLEEN FAHERTY, ESQ.

13 RICHARD SAWYER, ESQ.

14

15 LAWYERS' COMMITTEE FOR CIVIL RIGHTS

16 Attorneys for Private Plaintiffss

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18 Washington, D.C. 20005

19 BY: MARC EPSTEIN, ESQ.

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25 FRANKLIN MONSOUR, ESQ.

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1
2 APPPEARANCES: (CONTINUED)
3

4 GERSTMAN & SCHWARTZ, LLP
5 Attorneys for Defendants
6 1399 Franklin Avenue
7 Garden City, New York
8 BY: RANDY E. KLEINMAN, ESQ.
9
10
11
12 ALSO PRESENT:
13 NATHANIEL ARMSTRONG, Videographer
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1 RIBANDO

2 last one was I am going to say about five
3 years ago when I left the county.

4 Q. And was that in relation to your
5 official duties at the county?

6 A. Yes. It was -- it was in
7 relation to a case I did in the Nassau
8 County District Attorney's Office when I
9 was employed by them.

10 Q. Okay. And have you
11 been -- have you ever sat for an expert
12 deposition before?

13 A. No.

14 Q. Okay. So how many times would
15 you say you have been deposed?

16 A. Can I clarify the last question?

17 Q. Sure.

18 A. I was -- I was slated to testify
19 as an expert witness in a murders case in
20 Orange County, but I just never got
21 called.

22 Q. Okay. Was -- and there was no,
23 you know, interview or deposition that you
24 gave before that?

25 A. Excuse me?

1 RIBANDO
2 unless somebody wants me to review a case
3 just to -- just to look at strengths and
4 weaknesses, but I don't really get
5 involved in criminal cases. I have been
6 on -- I've been on the prosecution side
7 for many, many years. So I -- I pretty
8 much stick with civil.

9 Q. Okay. Just before I move on,
10 when we were talking about Ms. Donnelly's
11 campaign, were any contributions --

12 A. No. Ann Donnelly and I worked
13 together for years in the Nassau County
14 District Attorney's office. It was never
15 returned to me. It was a fund-raiser for
16 her.

17 Q. Okay. Let's move on.

18 Can you -- let's talk a little
19 bit about the other matter that you were
20 retained as an expert for. How did that
21 retention come about?

22 A. How did that -- Dennis Ring, who
23 is an attorney who I -- is one my clients,
24 he had a murder case in Orange County.
25 He asked me to get involved in it. I did

RIBANDO

2 based on the fact that I do a lot of work
3 with him. I reviewed the case. I
4 interviewed some people, and when it came
5 to trial it was -- it was a jury trial.
6 It was brought to trial, and I was listed
7 as an expert witness to testify in it, but
8 I never testified -- but I never had to.

9 Q. And do you recall what the facts
10 of that case were?

11 A. Yes.

12 Q. And what were they?

1.3 A. The facts of the murder case?

14 Q. Yes.

15 A. It was a boyfriend and
16 girlfriend. The male was married. He
17 was having an affair. She -- she was
18 murdered in her apartment and beaten with
19 a blunt object, a hammer, and the girl
20 died in her apartment.

21 Q. And what -- did you prepare a
22 report or a statement in that case?

23 A. I did not.

24 Q. And you said you interviewed
25 some people. Who did you interview?

1 RIBANDO

2 A. Well, everything -- everything
3 is subjective.

4 Q. Okay. So this is -- I think
5 you are getting -- you're agreeing with me
6 when I was saying that it can be an art
7 more than a science?

8 A. Well, certain -- the only reason
9 I was asked to clarify is that there were
10 certain parts of the investigation where
11 science comes into play, DNA,
12 fingerprints, that type of thing.

13 Q. Sure. But when to and how to
14 employ that scientific analysis is
15 different than sort of setting out an
16 investigation and determining who to talk
17 to and what to do, correct?

18 A. Correct. Yes.

19 Q. Thank you. That is helpful.
20 So I think you answered this,
21 but I just want to go through my outline.
22 Are there any other instances where you
23 prepared an expert report?

24 A. Excuse me?

25 Q. Are there any other instances

1 RIBANDO

2 where you prepared an expert report or
3 statement?

4 A. No.

5 Q. So this is the first time that
6 you actually wrote down a statement these
7 are my opinions?

8 A. As a person who is now in his
9 own business, yes.

10 Q. Okay. So what about when you
11 were in government? Were you ever retained
12 as an expert there?

13 A. You know what? The answer to
14 that is yes. I just thought of this now.
15 I was -- I was asked by the -- it was a
16 civil case. I was -- I was in the
17 District Attorney's Office, and I used
18 to -- most of my career was in Brooklyn as
19 an NYPD officer. So I knew people from
20 the civil department in Brooklyn, civil
21 legal department in Brooklyn, and they had
22 asked me to review a case on a lawsuit
23 against -- against the City
24 regarding -- I'm trying to think because
25 it was back in 2007 I think. I can't

1 RIBANDO

2 We didn't monitor the elections. We had a
3 team that were on standby if in case there
4 were issues that arose on election day.
5 We didn't monitor them. We -- like I
6 can't speak for any other county, but, you
7 know, maybe Nassau is unique. Maybe it is
8 not. You know, there was complaints
9 coming from everywhere. So what I decided
10 to do at some point in time was
11 keep -- election day was a day off for the
12 county as every day -- But -- as ever
13 county, but I decided to keep a few
14 investigators and a few Assistant District
15 Attorney's with expertise in the area
16 on -- on election day in the event that
17 something came up. So I didn't have to
18 scramble to bring people in. So when you
19 say monitor, there was no monitoring. It
20 was more of a standby to either answer
21 questions or if something arose.

22 Q. Okay. Have you ever personally
23 investigated potentially violations of New
24 York's Election Law?

25 A. I would have to say yes. I

1 RIBANDO
2 don't know if I personally did, but there
3 was Election Law violations that we had
4 investigations on in the public corruption
5 bureau. So I don't -- I didn't
6 personally -- I might not -- look, I
7 oversaw the whole division. There was
8 hundreds and hundreds of investigations
9 going on at any given time. So when you
10 say -- I don't want to misspeak and say I
11 did it, but I don't want to speak and say
12 I -- I led the investigation. In other
13 words, my role as the chief of
14 investigations and the chief investigator
15 was to oversee and deploy people as
16 necessary and conference -- and when I got
17 promoted was to conference cases or
18 conference cases for plea bargains and
19 oversee every investigation, but obviously
20 I wasn't minutely involved in every single
21 investigation other than maybe getting an
22 update every once in a while. I had
23 weekly meetings with my bureau chiefs.
24 Every division had a bureau
25 chief -- excuse me. Every bureau had a

1 RIBANDO
2 bureau chief. So I would have weekly
3 meetings scheduled for every bureau to go
4 over all their active cases and all of
5 their -- all of new complaints that came
6 in and whether or not we were going to
7 take a case or not. I hope that answers
8 your question.

9 Q. It does. So just one
10 follow-up.

11 When you talk about the public
12 corruption bureau and electronic law, is
13 it fair to say that those cases that were
14 investigated didn't deal with voting
15 rights or voter intimidation?

16 A. No. I -- I would say that is
17 fair, but I would say that voter
18 intimidation would come up on a regular
19 basis on election day from both parties.

20 Q. Okay. But you personally
21 weren't --

22 A. I don't think we ever
23 substantiated any of them.

24 Q. Okay. And you personally wasn't
25 the one that was doing the voter

1 RIBANDO

2 MR. KLEINMAN: Objection.

3 A. Specifically?

4 Q. Yes.

5 A. I don't recall.

6 Q. Okay. Are you familiar with
7 the New York State Election Law?

8 A. Somewhat.

9 Q. Are you familiar with the crimes
10 that are listed in Article 17 of the New
11 York Election Law?

12 A. Not off the top of my head. I
13 don't.

14 Q. Are you familiar with the
15 specific statute governing voter
16 intimidation at the State?

17 A. Well, if you are asking me to
18 recite it, I don't -- I can't do that.

19 Q. Have you ever been part of a
20 team that prosecuted a voter intimidation
21 case?

22 A. No.

23 Q. Are you familiar with the
24 requirements of the voting rights act of
25 1965?

1 RIBANDO

2 A. Not that I recall, no.

3 Q. Have you ever been asked to give
4 a lecture, an internal lecture to one of
5 the offices about voting rights?

6 A. No.

7 Q. Election protection?

8 A. No. I have never lectured on
9 voting law.

10 Q. Okay.

11 A. If that is your question.

12 Q. Have you ever had reason or --
13 MR. DUFFY: Strike that.

14 Q. Have you ever read what the
15 elections laws of other states are?

16 A. Not that I recall. No.

17 Q. Have you ever had to make
18 yourself familiar about what the voter
19 registration laws for other states are?

20 A. No.

21 Q. In preparing this opinion here
22 today, did you research what the voting
23 rights of other states were?

24 A. That wasn't the scope of what I
25 was asked to opine on.

1 RIBANDO

2 voter intimidation?

3 A. The simple definition in blue
4 collar terms is being intimidated not to
5 vote for whatever reason.

6 Q. And is that the only definition
7 you could provide right now?

8 A. I don't know the -- I am not
9 reading off a document the exact
10 definition. I am just giving you an
11 example.

12 Q. In preparing your report, did
13 you go and look at the Election Law and
14 how it defines voter intimidation?

15 A. For this particular instance?

16 Q. Yes.

17 A. No.

18 Q. Okay. And is there a reason why
19 you wouldn't do that?

20 A. Well, because -- well, if I
21 thought there was a possibility of voter
22 intimidation regarding this call I might
23 have done that, but there was nothing in
24 this call that was intimidating to
25 anybody. Nobody told anybody don't vote.

1 RIBANDO

2 A. Correct.

3 MR. DUFFY: Okay. Can we take
4 a two-minute break. I just have to
5 run to the restroom. Is that okay?

6 MR. KLEINMAN: Okay.

7 THE VIDEOGRAPHER: The time is
8 1:50 p.m. We are now off the record.
9 This is the end of unit 5.

10 (Recess taken.)

11 THE VIDEOGRAPHER: This marks
12 unit number 6. The time is 1:54
13 p.m. We are back on the record.
14 You may proceed.

15 Q. So I just want -- you offered
16 two opinions in this report, and we were
17 discussing opinion number 2, and that is
18 your conclusion that the call is not
19 intimidating, correct?

20 A. Correct.

21 Q. So we may save time by doing it
22 right now, but your -- the entirety of
23 your expert opinion with respect to that
24 opinion 2 is that because you believe the
25 call is true, you found it not to be

1 RIBANDO

2 intimidating, correct?

3 MR. KLEINMAN: Objection.

4 A. Yes. Yes. Not -- in other
5 words, I was asked to review the call for
6 its accuracy. If somebody were to feel
7 intimidated by that, I can't put myself in
8 somebody else's shoes. I could only say
9 is the content of that call accurate. I
10 can't put myself in somebody else's shoes
11 and say well to me I was intimidated by
12 that because nothing in that call to me in
13 my expertise was inaccurate.

14 Q. And your expertise is from your
15 understanding of the law you determined
16 that the call was not intimidating,
17 correct?

18 A. Correct, but again if -- if
19 somebody is stating a fact, I don't know
20 how that can be intimidating. Somebody
21 could take it as that, but I can't opine
22 on what somebody else's perception of the
23 call was. That wasn't my job. I mean I
24 guess you can let a hundred people listen
25 to that call, and you might get somebody

1 RIBANDO
2 to say I am intimidated for whatever
3 reason. But again my job was to look at
4 the call and say is there anything -- to
5 be honest with you to go into it deeper I
6 thought the woman on the call was
7 very -- sounded very professional on the
8 phone, and she just merely stated to me
9 what the facts were.

10 Q. And I think you referred
11 to -- it is a term that I heard that you
12 referred to yourself as a law man?

A. I never said I was a law man.

14 Q. I believe your report refers to
15 you as a law man, and I can pull it up.

16 A. Maybe it did. Maybe it did. It
17 is a poor choice of words. I don't like
18 that term to begin with.

19 Q. But as someone who has
20 experience in law enforcement, it is your
21 legal conclusion that that call is not
22 intimidating, correct?

23 A. Not intimidating?

24 Q. Yes?

25 A. It is my opinion that it is

1 RIBANDO

2 Q. And here based on your decades
3 in law enforcement your legal conclusion
4 is that this was not intimidating,
5 correct?

6 A. Yes.

7 MR. DUFFY: Okay. Let's
8 actually take a break right there
9 because I will switch topics when we
10 get back, so I will give you a few
11 minutes. Thank you.

12 MR. KLEINMAN: Thanks.

13 THE VIDEOGRAPHER: The time is
14 1:57 eastern daylight time on May 27,
15 2022. We are now off the record.

16 (Recess taken.)

17 THE VIDEOGRAPHER: This marks
18 media number 7. The time is now 2:17
19 p.m. on May 27, 2022.

20 You may proceed.

21 MR. DUFFY: Rick, can we pull
22 up whatever the report is. I think
23 Exhibit 140 something. Sorry.

24 MR. SAWYER: It is 146.

1 RIBANDO
2 investigator I would mostly utilize public
3 records including the superior information
4 provided by an executed mail-in voter
5 registration information to identify the
6 whereabouts of an individual with an
7 outstanding warrant or credit card debt to
8 be used for enforcement purposes."

9 Did I read that accurately?

10 A. Yes.

11 Q. So what is the basis for your
12 position here that voter -- mail-in voter
13 registration applications are superior to
14 other types of voter data?

15 A. Well, that's -- two reasons.
16 One of the main reasons is New York
17 specifically I can only speak to, but in
18 New York you still have to request a
19 mail-in ballot. As far as where you
20 vote, that -- you could remain going to
21 the same voting location even if you move
22 to another location, but if you want
23 an -- if you want -- if you request a
24 mail-in ballot, obviously you are going to
25 want -- you are going to want to make sure

1 RIBANDO
2 percent, but there is a number of
3 different ways I could find somebody's
4 address.

5 Q. Okay. And one of which
6 is -- look it is hard to explain.
7 Transunion takes their information one of
8 which is from them getting correspondence
9 to that address -- mailed to that address
10 or whatever. That is one of the ways
11 they get their information.

12 Q. I understand that, but I am
13 focused on the board -- the source of that
14 information because the claims in this
15 case are that if you vote by mail you're
16 more likely -- it seems to be the most
17 relevant opinion you are making is that if
18 you vote by mail you are more likely to be
19 tracked by law enforcement than if you
20 vote in person, and would you agree with
21 that?

22 A. I 'm saying it is more accurate.
23 I won't specifically go off a voter
24 registration for somebody's address. I
25 would say there is a number of different

1 RIBANDO

2 things that come into play, and one of
3 which is if somebody registers a mail-in
4 ballot that will -- that will enhance that
5 is the address I am looking for.

6 Q. But it seems to me that that you
7 are still based on --

8 A. So --

9 Q. Let me ask a question.

10 MR. KLEINMAN: Let him finish.

11 A. I have to finish.

12 Q. You answered my question. Let
13 me ask you another question.

14 A. I didn't answer your question
15 wholly.

16 Q. Let me ask a question.

17 MR. KLEINMAN: Let's both make
18 sure that the other is finished
19 before we go on. That way we avoid
20 any confusion.

21 Q. So is it more accurate to say
22 that you are not likely to be tracked
23 simply by voting by mail?

24 MR. KLEINMAN: Objection.

25 A. Say that again.

1 RIBANDO

2 Q. In terms of what law enforcement
3 is reviewing, you're saying that mail in
4 voter data is superior, correct?

5 A. Superior to what?

6 Q. To voting in person. That is
7 what your report says.

8 A. I wanted to finish my answer
9 from before. When I say -- when I say
10 these databases take information in order
11 to locate somebody, one of which is where
12 they receive mail from, Part of that
13 information, mail information, they would
14 take from mail that goes to that address
15 including -- including a voting ballot.

16 Q. So your opinion here is based on
17 the assumption that the State of Board of
18 Elections when they collect that data is
19 disclosing where the absentee ballot was
20 sent, correct?

21 A. No. It's disclosing -- that is
22 another way. I would have to go a little
23 further to get it, but what I am saying is
24 if that mail was going to that specific
25 address, whether it was a utility bill or

1 RIBANDO

2 whether it was an absentee ballot, it is
3 going to confirm the address of that
4 person.

5 Q. Okay. You --

6 A. I hope I am articulating that
7 correctly.

8 Q. I think we are in agreement.
9 You are focusing on utilities. I want you
10 to focus --

11 A. I am not focusing on any one
12 thing. I am saying part of the way they
13 gather information to know that a person
14 resides at that address or has ties to
15 that address is by mail they receive
16 there, any mail including ballots.

17 Q. Okay. But if you vote by mail,
18 I think what I am trying -- what I am
19 trying to understand is what you are
20 saying is that you're assuming that the
21 State Board of Elections is disclosing
22 where you receive in your public data the
23 mail-in ballot?

24 MR. KLEINMAN: Objection.

25 A. I am answering the question, but

1 RIBANDO

2 MR. DUFFY: Yes, you have the
3 right one.

4 MR. SAWYER: Okay.

5 MR. DUFFY: And this will be
6 Exhibit 152.

7 (Exhibit 152 marked for
8 identification.)

9 Q. So this is a printout or a
10 screen shot from the New York State Board
11 of Elections website. It has -- this is
12 where if you want to FOIL something, this is
13 how you would do it for public voter
14 registration data.

15 Do you see that?

16 A. Yes.

17 Q. And have you used this before?

18 A. I have not.

19 Q. Okay. If you see down here it
20 says notice. Do you see where it says
21 that?

22 A. Yes.

23 Q. "New York State Election Law
24 Section 3-1035 prohibits using information
25 derived from voter registration records

1 RIBANDO

2 for nonelection purposes."

3 Did I read that accurately?

4 A. Yes.

5 Q. And then it says "The Applicant
6 hereby requests access to voter
7 registration records requested, accepts
8 and understands the conditions outlined
9 above and certifies that they have a right
10 to access to the records."

11 Did I read that accurately?

12 A. Yes.

13 Q. And it says "Any person who
14 knowingly and willfully violates this
15 provision is guilty of a misdemeanor," and
16 it cites the law we just read, correct?

17 A. Correct.

18 Q. Okay. So what do you understand
19 this to mean?

20 A. They are talking about the
21 public, are they not?

22 Q. I am asking what your
23 understanding is.

24 A. I am understanding that they are
25 talking about the public.

1 RIBANDO

2 Q. Okay. So you don't understand
3 this to apply to law enforcement?

4 A. I don't.

5 Q. Okay. What about credit card
6 collectors, debt collectors?

7 A. I would say yes. That's -- that
8 would be prohibited. I've never been
9 hired by a debt collector, but I would
10 assume they would -- they would engage a
11 private investigator to help them with
12 debt collections.

13 Q. Okay. Is it your position that
14 this doesn't apply to private
15 investigators?

16 A. Yes.

17 Q. Okay. Have you ever -- can you
18 point to any law or guidance that confirms
19 what your position is?

20 A. No, but it is -- this is -- the
21 law specifically says to the public.

22 Q. Where does it say that?

23 A. Didn't you just read it in the
24 last -- in the last -- when you said the
25 public could not use any information other

1 RIBANDO

2 than for voter registration -- other than
3 for -- other than -- you can't use it for
4 anything personal or any other reason
5 other than Election Law, other than
6 elections.

7 MR. DUFFY: That is Section
8 3-103. Rick, do you mind pulling
9 that back up. I believe it was page
10 71 of the PDF, No. 5 there.

11 Q. Is there anything in here that
12 says if you are a private investigator you
13 can use it for nonelection purposes?

14 MR. KLEINMAN: Objection.

15 A. Is there anything that says that
16 law enforcement can't use in there as
17 well?

18 Q. Is there anything that says -- I
19 am asking you. Answer my question first.

20 A. No.

21 Q. Is there anything that says that
22 a private investigator can use -- it is
23 excepted from this requirement?

24 A. No.

25 Q. Is there anything that says law

1 RIBANDO

2 enforcement is excepted from this
3 requirement?

4 A. No.

5 Q. Is there anything that says the
6 CDC is excepted from this requirement?

7 A. No.

8 Q. Now, is --

9 A. Is there -- is there anything in
10 there that says this includes law
11 enforcement and private investigators,
12 licensed private investigators?

13 Q. I am not here to answer
14 questions.

15 A. I'm just asking.

16 Q. I move to strike that, but let
17 me ask my next question.

18 Is the enforcement of a warrant
19 an election purpose?

20 A. Is the enforcement of a warrant
21 for an --

22 Q. Does it have anything to do with
23 elections? Is that for an election
24 purpose?

25 A. I -- that is a very vague

1 RIBANDO

2 Q. So do you still stand by your
3 position that the call is accurate?

4 MR. KLEINMAN: Objection.

5 A. I am simply saying that part of
6 identifying someone -- part of -- one of
7 many, many different things that helps
8 identify somebody is where they are
9 registered to vote, so your -- I think
10 your -- and correct me if I am wrong, and
11 I am not trying to be combative, I think
12 you are say to -- making a statement to
13 say the only way I identify somebody is
14 where they vote or where they get their
15 absentee ballot, and that is not an
16 accurate statement. It is one of 10,000
17 different things you use. So your -- you
18 are absolutely right with the questions
19 you asked me, but that would be pertaining
20 to if the only way I was identifying where
21 somebody lives is specifically based on
22 their voter registration. I am saying
23 that is one of many.

24 Q. Okay. I think it's helpful.
25 Let's move on. I want to go back to -- I

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1 RIBANDO

2 C E R T I F I C A T I O N

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4

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6 I, DEBBIE ZAROMATIDIS, a Shorthand
7 Reporter and a Notary Public, do hereby
8 certify that the foregoing witness,
9 CHARLES RIBANDO, was duly sworn on the
10 date indicated, and that the foregoing is
11 a true and accurate transcription of my
12 stenographic notes.

13

14 I further certify that I am not
15 employed by nor related to any party to
this action.

16

17

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19

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21



22

23

DEBBIE ZAROMATIDIS

24

25